

and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record has the meaning given that term in § 430.203 of this chapter. For an employee not subject to 5 U.S.C. Chapter 43, or part 430 of this chapter, it means the officially designated performance rating, as provided for in the agency's appraisal system, that is considered to be an equivalent rating of record under the provisions of § 430.201(c) of this chapter.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means:

(1) The fourth step of the grade for a position covered by the General Schedule, using the locality rate authorized by 5 U.S.C. 5304 and subpart F of part 531 of this chapter for General Schedule positions;

(2) The prevailing rate for a position covered by a wage-board or similar wage-determining procedure, such as provided in the definition of representative rate for Federal Wage System positions in 5 CFR 532.401 of this chapter;

(3) For positions in a pay band, the rate (or rates) the agency designates as representative of that pay band or competitive levels within the pay band, including (as appropriate) any applicable locality payment authorized by 5 U.S.C. 5304 and subpart F of part 531 of this chapter (or equivalent payment under other legal authority); and

(4) For other positions (e.g., positions in an unclassified pay system), the rate

the agency designates as representative of the position, including (as appropriate) any applicable locality payment authorized by subpart F of part 531 (or equivalent payment under other legal authority).

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

[51 FR 319, Jan. 3, 1986, as amended at 58 FR 65533, Dec. 15, 1993; 60 FR 3062, Jan. 13, 1995; 62 FR 62500, Nov. 24, 1997; 73 FR 29388, May 21, 2008]

§ 351.204 Responsibility of agency.

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction force is necessary.

§ 351.205 Authority of OPM.

The Office of Personnel Management may establish further guidance and instructions for the planning, preparation, conduct, and review of reductions in force. OPM may examine an agency's preparations for reduction in force at any stage. When OPM finds that an agency's preparations are contrary to the express provisions or to the spirit and intent of these regulations or that